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8 UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
9 CALIFORNIA

10
11 CHAD MCKINNEY, an individual,

12 Plaintiff,

13 v.

14 APOLLO GROUP, INC.,
15 UNIVERSITY OF PHOENIX, a
Corporation, MECHELLE
16 BONILLA, an Enrollment Manager
at UNIVERSITY OF PHOENIX,
KYAN FLYNN, Director of
17 Enrollment at UNIVERSITY OF
PHOENIX, APRIL ALCORN, an
Employees Relations Consultant at
UNIVERSITY OF PHOENIX,
18 CARLYN LINDSTEN, Associate
Director of Enrollment at
UNIVERSITY OF PHOENIX

19 Defendants
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CASE NO. 07-CV-2373 WQH CAB

**NOTICE OF MOTION AND
MOTION TO DISMISS
PLAINTIFF'S COMPLAINT, OR, IN
THE ALTERNATIVE, MOTION
FOR MORE DEFINITE
STATEMENT**

[FRCP 12(b)(2); 12(b)(5); 12(b)(6);
12(e).]

**NO ORAL ARGUMENT, UNLESS
REQUESTED BY THE COURT**

Date: April 7, 2008

Time: 11:00 a.m.

Courtroom: 4

Judge: Hon. William Q. Hayes

DATE OF FILING: December 19, 2007

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2 TO PLAINTIFF AND HIS ATTORNEY(S) OF RECORD:

3 PLEASE TAKE NOTICE that on April 7, 2008 at 11:00 a.m., or as soon
4 thereafter as counsel may be heard by the above entitled Court, located at 940 Front
5 Street, San Diego, California 92101, Courtroom 4, defendant Apollo Group, Inc.
6 (“Apollo”) will and hereby does move the Court pursuant to Rules 12(b)(2);
7 12(b)(5); 12(b)6; and 12(e) of the Federal Rules of Civil Procedure (“FRCP”) to
8 dismiss plaintiff’s complaint with prejudice or in the alternative require a more
9 definite statement.

10 This motion is brought on the following grounds: (1) The Court lacks
11 jurisdiction over Apollo since it was never properly served in this matter; (2) The
12 Complaint fails to state any claims upon which relief may be granted; (3) The
13 Complaint fails to set forth a short and plain statement of the claim showing that the
14 [plaintiff] is entitled to relief; and (4) The Complaint is so vague and ambiguous so
15 as to require plaintiff to provide a more definite statement.

16 This motion is based on this notice of motion and motion, the memorandum
17 of points and authorities, the declaration of Nathan W. Hicks filed herewith, and
18 supporting exhibit thereto, the Court’s files in this matter, all supporting documents,
19 evidence and oral argument before this Court at the time of the hearing, and any
20 other matter properly before the Court.

21 Date: March 7, 2008

22 SNELL & WILMER L.L.P.

23 By:

24 Christy Joseph

25 Nathan W. Hicks

26 Attorneys for Apollo Group, Inc.

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626.

On March 7, 2008, I served, in the manner indicated below, the foregoing document described as **NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT, OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT** on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

Chad McKinney Pro Se 6266 Madeline Street, Apt. #61 San Diego, CA 92115	Plaintiff Tel: 619-634-3566
United States District Court Attention: Hon. Judge William Q. Hayes 940 Front Street San Diego, CA 92101	

BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees. (C.C.P. § 1013(c)(d)).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 7, 2008, at Costa Mesa, California.


Anh Dufour

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